

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CARVIN G. BROOKS,)
Petitioner,)
vs.) Case No. 15-CV-517-SMY
USA,)
Respondent.)

MEMORANDUM AND ORDER

YANDLE, District Judge:

Petitioner Carvin G. Brooks filed a Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 on May 7, 2015. Counsel was appointed to represent Brooks, and after an evidentiary hearing, the Motion was denied on September 27, 2018 (Doc. 28). The Clerk of Court entered Judgment the same day (Doc. 29) and electronically transmitted it to Brooks' attorney, Jordan J. Campanella.

Now pending before the Court is Brooks' *pro se* Motion for Extension of Time to File a Notice of Appeal (Doc. 30). Brooks asserts that he did not receive a copy of the Court's Judgment until after he contacted his attorney in February 2019. He seeks additional time pursuant to Federal Rule of Appellate Procedure 4(a) to file a notice of appeal.

Brooks had 60 days from entry of Judgment to file his notice of appeal, or until November 26, 2018. Fed. R. App. P. 4(a)(1)(B). That deadline can be extended upon a showing of excusable neglect or good cause, if requested no later than 30 days after the deadline – in this case, by December 26, 2018. *Id.* 4(a)(5). Thereafter, the deadline for filing a notice of appeal can be extended if Brooks can show that he did not receive notice of the Judgment within 21 days of its entry and that no party would be prejudiced. Such a motion, however, must be filed within 180

days of entry of the Judgment or 14 days after receiving notice thereof, whichever is earlier. *Id.* 4(a)(6).

Even if the Court finds that Brooks' did not receive a copy of the Judgment (he was represented by counsel who did receive a copy), the earliest of those dates is on or around March 18, 2019, 14 days after he received a copy of the Judgment. As such, Brooks' Motion was filed 57 days too late and is **DENIED** as untimely.

IT IS SO ORDERED.

DATED: September 26, 2019

A handwritten signature of Staci M. Yandle in black ink, written in a cursive style. The signature is positioned above a circular official seal.

STACI M. YANDLE
United States District Judge